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CHARLES ELMORE CROPLEY

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1945

No. 276

EARL S. WORSHAM, TRADING AS WORSHAM BROTHERS,
Petitioner,

vs.

THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF CLAIMS AND BRIEF IN SUPPORT THEREOF

GEORGE R. SHIELDS,
Counsel for Petitioner.

HERMAN J. GALLOWAY,
JOHN W. GASKINS,
FRED W. SHIELDS,
Of Counsel.

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(a) The Court of Claims has altogether disregarded the findings and conclusions of the Contracting Officer which by agreement of the parties were to be taken as conclusive	5
(b) The decision of the court as thus made completely ignores a long line of decisions both by the Court of Claims and this Court which give finality to the findings of the contracting officer where the contract so provides in the absence of any showing of fraud or of such gross mistake as to import bad faith on the part of the deciding officer	7
(c) If the contracting officer's decision is to be accepted as correct, obviously the Court of Claims erred in not rendering judgment for whatever increased costs were occasioned the contractor by the failure of the United States to supply an adequate quantity of labor when needed.	10

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STATUTES CITED

Act of February 13, 1925, Section 3 (b), as amended by the Act of May 22, 1939 1

SUPREME COURT OF THE UNITED STATES

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No. 276

EARL S. WORSHAM, TRADING AS WORSHAM BROTHERS,
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vs.

THE UNITED STATES,
Respondent

PETITION FOR CERTIORARI TO THE COURT OF CLAIMS

The petitioner prays that a writ of certiorari issue to review the judgment of the Court of Claims in the above case.

Opinion of the Court Below

The opinion of the Court of Claims (R. 34) is not yet officially reported.

Jurisdiction

The judgment of the Court of Claims was entered April 2, 1945 (R. 46) and petitioner's motion for new trial was denied June 4, 1945 (R. 46). The jurisdiction of this Court is invoked under Section 3(b) of the Act of February 13, 1925, as amended by the Act of May 22, 1939.

Question Presented

The primary question involved in this case is: May the Court of Claims, in the absence of any showing of fraud or of such mistake as to import bad faith, ignore the findings of the Contracting Officer made final by agreement of the parties, and disregard the decisions of this Court and the Court of Claims itself holding in such cases that the decision of the Contracting Officer is conclusive?

Statement

The petitioner was contractor with the United States for the construction of certain barracks buildings at Fort McClellan, near Anniston, Alabama. Under the contract he was required to obtain through the United States Employment Service the necessary labor for constructing such buildings. He was not permitted to employ labor from other sources. From time to time he made requisitions but due to the multiplicity of work in the vicinity or from other causes, the Employment Agency was unable to supply the labor when and as required. Petitioner made timely protests against such failure and before the contract time expired made claim for an extension of time on account thereof.

The Contracting Officer, after investigation and on recommendation of the Constructing Quartermaster in charge of the work for the Government, supported by a certificate of the head of the Employment Agency that the work had been delayed 120 days due to lack of qualified skilled labor, granted an extension of 120 days on such account.

The Construction Quartermaster, although he had certified to the Contracting Officer as above stated, was called as a witness by the defendant and testified, in contradiction of what he had thus officially certified, that the work was

not really delayed by lack of qualified labor when needed. The Court of Claims has given credence to his contradictory testimony, and has ignored the findings of the Contracting Officer who found as a fact that the work was delayed by lack of labor. Petitioner sued for the increased cost incurred by reason of the prolongation of the work over a 120-day period. His petition was dismissed for the reasons above stated.

Specification of Errors to Be Urged

The Court of Claims erred:

1. In disregarding the findings and conclusions of the Contracting Officer which by agreement of the parties were to be final.

2. In ignoring a long continued line of decision by the Supreme Court and the Court of Claims as giving finality to the findings of the Contracting Officer where the contract so provided, in the absence of any showing of fraud or any such gross mistake as to import bad faith.

3. In failing to render judgment on the claim.

Reasons for Granting the Writ

1. The decision of the Court of Claims involves an important question of contract law that has arisen frequently in the past and will arise constantly in the future. It is important that such question be settled authoritatively once and for all by the Supreme Court.

2. The decision of the Court of Claims is erroneous and is in conflict with a long line of earlier decisions by that court and by this Court with what should be regarded as settled law on the subject.

3. The question presented is of wide importance.

Conclusion

The assignment of errors and the reason for granting the writ will be discussed in a short brief accompanying this petition. The writ should be allowed.

Respectfully submitted,

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